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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,667	08/19/2003	Steven M. Casey	020366-091400US	6436
20350	7590	07/15/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			ESCALANTE, OVIDIO	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/644,667

Applicant(s)

CASEY ET AL.

Examiner

Ovidio Escalante

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/01/04; 10/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement submitted on October 14, 2003 and March 1, 2004 was received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2,5-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Swan et al. US Patent 5,978,451.

***Regarding claims 1,14 and 20***, Swan teaches a network interface device (PCC 10) and method for processing a telephone call, (abstract), the network interface device (fig. 2a,2b) and method comprising:

a first communication interface coupled to a public switched telephone network (PSTN), wherein the first communication interface receives the telephone call from any of a plurality of callers remote to the network interface device, (fig. 3a; col. 4, lines 22-39);

a second communication interface coupled to one or more phones at a user location, (col. 6, lines 21-44; fig. 2), wherein:

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the one or more phones are associated with a telephone number, and the plurality of callers can call the one or more phones with the telephone number, (col. 7, line 63-col. 8, line 16);

a telephone switch coupled to both of the first communication interface and second communication interface, (col. 6, lines 55-62), wherein the telephone switch optionally routes an incoming phone call to the second communication interface if one or more access control rules permit routing the incoming phone call to the second communication interface, (col. 8, lines 45-57; col. 9, lines 38-52); and

a controller (processor 32) that analyzes the one or more access control rules and either routes the incoming phone call from the first communication interface to the second communication interface or prevents the incoming phone call from reaching the second communication interface, (col. 9, lines 18-35), wherein the one or more phones ring when the incoming call is routed to the second communication interface, (col. 9, lines 38-52).

**Regarding claim 2**, Swan, as applied to claim 1, teaches wherein the controller routes the incoming phone call to a voice response system, (col. 8, lines 17-27).

**Regarding claim 5**, Swan, as applied to claim 1, teaches wherein the network interface device is located at the user location, (fig. 2a).

**Regarding claim 6**, Swan, as applied to claim 1, teaches wherein the network interface device is physically accessible from outside the user location, (fig. 2b).

**Regarding claim 7**, Swan, as applied to claim 7, teaches wherein the one or more access control rules are stored within the network interface device, (col. 5, lines 18-35).

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**Regarding claims 8 and 9**, Swan, as applied to claim 1, teaches wherein the second communication interface is a PSTN interface, (fig. 3a). The Examiner notes that since claim 8, is written in the “alternate or” format then claim 9 is met when the PSTN interface is chosen over the VOIP interface.

**Regarding claim 10**, Swan, as applied to claim 1, teaches wherein the first communication interface uses a first physical transport that is different from a second physical transport of the second communication interface, (col. 5, lines 1-17).

**Regarding claim 11**, Swan, as applied to claim 1, teaches wherein the one or more phones are a POTS phone, (fig. 2a).

**Regarding claim 12**, Swan, as applied to claim 1, teaches wherein the network interface device is integral with at least one of the one or more phones, (col. 4, line 63-col. 5, line 36).

**Regarding claim 13**, Swan, as applied to claim 1, teaches wherein the controller routes the incoming phone call to voicemail according to the one or more access control rules, (col. 9, lines 38-52).

**Regarding claim 15**, Swan, as applied to claim 14, teaches wherein the one or more access control rules test a caller ID variable associated with the incoming call, (col. 6, lines 7-20).

**Regarding claim 16**, Swan, as applied to claim 14, teaches wherein the one or more access control rules block all incoming calls during a time period, (col. 9, lines 38-52).

**Regarding claim 17**, Swan, as applied to claim 14, teaches wherein the one or more access control rules route all incoming calls during a time period to a voice response system, (col. 9, lines 18-52).

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**Regarding claim 18**, Swan, as applied to claim 14, teaches wherein the one or more access control rules block one or more incoming calls during a time period, (col. 9, lines 18-52).

**Regarding claim 19**, Swan, as applied to claim 14, teaches wherein a specified number overrides the one or more access control rules to route the incoming phone call to the second communication interface, (col. 9, lines 54-64).

**Regarding claim 21**, Swan, as applied to claim 20, teaches wherein the one or more access control rules are entered and modified from within the user location, (col. 11, lines 54-63).

**Regarding claim 22**, Swan, as applied to claim 20, teaches wherein the user location is a residence and the method is performed within the user location, but not on the one or more phones, (fig. 2a).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan et al. in view of Bossemeyer et al. US Patent Pub. 2003/0027565.

***Regarding claims 3 and 4***, Swan, as applied to claim 2, does not specifically teach of wherein the voice response system queries a caller to record a greeting and playing the greeting to the called party.

In the same field of endeavor, Bossemeyer teaches wherein the voice response system queries a caller of the incoming phone call to record a greeting, and the greeting is played before the call is answered, (fig. 15; paragraph 0047) and wherein the greeting is played instead of a ring tone, (fig. 15; paragraph 0047).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swan by allowing the caller to record a greeting for playing to the called party as taught by Bossemeyer so that the called party can decide whether or not to answer the call based on who is calling.

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***Conclusion***

8. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30 to 4:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**OVIDIO ESCALANTE**  
**PATENT EXAMINER**

*Ovidio Escalante*

Ovidio Escalante  
Examiner  
Group 2645  
June 24, 2005

O.E./oe